

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**GERALD ULIBARRI and  
WHITE RIVER ROYALTIES, LLC,**

Plaintiffs,

v.

**No: 1:16-cv-215-RB-JHR**

**SOUTHLAND ROYALTY COMPANY,  
LLC,**

Defendant.

**Consolidated for purposes  
of class certification with:**

**GERALD ULIBARRI,**

Plaintiff,

v.

**No: 1:18-cv-294-RB-SCY**

**ENERGEN RESOURCES  
CORPORATION,**

Defendant.

**MEMORANDUM OPINION AND ORDER**

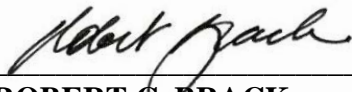
On March 15, 2019, the Court denied Plaintiffs' motion to exclude the proposed opinion testimony of Kris Terry in *Ulibarri v. Southland Royalty Co., LLC*. (See 16cv0215, Doc. 151.) Southland proffered Ms. Terry as an expert in the oil and gas industry to opine at the class certification hearing as to "the customs and practices, usage of terms, and historical context and circumstances in the oil and gas industry that have developed to shape common understanding of oil and gas agreements." (See *id.* at 7–8.) Before the Court issued its ruling denying the motion to exclude in *Southland*, Plaintiff Gerald Ulibarri also moved to exclude Ms. Terry's expert testimony from class certification proceedings in *Ulibarri v. Energen Resources Corp.* (18cv0294, Doc. 78.)

The Court has now consolidated the two cases for purposes of class certification proceedings, as “the two cases involve the same plaintiff, many of the same oil and gas leases, and shared discovery.” (16cv0215, Doc. 155 at 2; 18cv294, Doc. 87 at 2.)

Just as the two cases involve overlapping parties, legal issues, class certification arguments, and proffered experts, Ms. Terry’s proposed expert testimony and Plaintiffs’ motions to exclude that testimony are nearly identical in both cases. (*Compare* 16cv0215, Doc. 113, *with* 18cv0294, Doc. 78.) Thus, as the cases have now been consolidated for class certification purposes and “[a]ll documents regarding class certification shall be filed in both cases[,]” (16cv0215, Doc. 155 at 3; 18cv0294, Doc. 87 at 3), the Court finds that its Memorandum Opinion and Order denying Plaintiffs’ motion to exclude the testimony of Kris Terry in *Ulibarri v. Southland Royalty Co., LLC*, (16cv0215, Doc. 151), shall be incorporated herein by reference. For the reasons set forth in that opinion, the Court will deny Plaintiff Gerald Ulibarri’s similar motion in *Ulibarri v. Energen Resources Corp.*

**THEREFORE,**

**IT IS ORDERED** that Plaintiff’s Motion to Exclude the Proposed Opinion Testimony of Defendant’s Expert Kris Terry (18cv0294, Doc. 78) is **DENIED**.

  
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**ROBERT C. BRACK**  
**SENIOR U.S. DISTRICT JUDGE**